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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,803	09/09/2003	Partho Sarkar	2281-1-3	1819
996	7590	06/17/2009	EXAMINER	
GRAYBEAL JACKSON LLP			ALEJANDRO, RAYMOND	
155 - 108TH AVENUE NE				
SUITE 350			ART UNIT	PAPER NUMBER
BELLEVUE, WA 98004-5973			1795	
			MAIL DATE	DELIVERY MODE
			06/17/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* PARTHO SARKAR and HONGSANG RHO

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Appeal No. 2008-005003  
Application 10/658,803  
Technology Center 1700

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Mailed: June 16, 2009

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Before DALE M. SHAW, *Chief Appeals Administrator*

ORDER REMANDING TO EXAMINER

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This application was electronically received by the Board of Patent Appeals and Interferences on June 27, 2008. Upon review of the application, it has been determined that a remand to Examiner, via the Office of the Director of the Technology Center, is necessary to consider the following issues and to take necessary corrective action.

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Application No. 10/658,803

### APPEAL BRIEF, APPEALED CLAIMS

Appellant has not appealed all rejected claims. Specifically, a review of the Grounds of Rejection on the record finds that rejections are outstanding for the following pending claims: 1-13. The rejected claim that has not been appealed and/or argued for appeal is claim: 13.

### DISCUSSION

The Board of Appeals and Interferences (Board), in *Ex parte Ghuman*, <http://www.uspto.gov/web/offices/dcom/bpai/prec/rm081175.pdf> (BPAI May 14, 2008) (precedential), held that in appeals where rejected claims are expressly withdrawn, or are implicitly withdrawn by not presenting arguments in support of patentability, the Board will remand (or return) the application to the Examiner with instructions to cancel the expressly or implicitly withdrawn claims. *See also Manual of Patent Examining Procedure* (MPEP) § 1215.03 (8<sup>th</sup> ed. Rev. 7, Sept 2008).

### CONCLUSION

Accordingly, it is

ORDERED that this application be returned to the Examiner to:

1) enter a paper canceling claim 13;

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- 2) upon entry of the paper, to return the application to the Board for the consideration of appealed claims; and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DMS/bar

GRAYBEAL JACKSON LLP  
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